

Department of Environmental Protection and Resource Management
105 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 58432

Nicodemus Ventures LLC
Jay G. Hymer R/A
Reservoir Circle
Suite 102
Baltimore MD 21208

1 Nicodemus Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on February 17, 2010, for a Hearing on a citation for violations of the International Building Code (IBC) 206 section 105, failure to secure permit for shipping containers connected by roof on residential property known as 1 Nicodemus Road, 21136.

On January 6, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Rodney Larrick issued a Code Enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$10,000.00 (ten thousand dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on April 9, 2009 for failure to secure required permits for shipping containers connected by roof. A Citation was issued on November 3, 2009. Both notices were sent to Respondent at the address listed with the Maryland Department of Assessments & Taxation. This Citation was issued on January 6, 2010 and was sent to Respondent's Resident Agent as registered with the State of Maryland.

B. Notes in the file state that the property owner telephoned the Department on May 5, 2009, to say that he was coming in to talk to zoning staff about obtaining a permit, and that the property owner telephoned again on May 19, 2009, and stated that he would be pursuing the required permit. The file does not show any further response or corrective action from the property owner.

C. Photographs in the file of this commercial property show a large shed of unknown construction with a large metal shipping container along each side. The shed and containers appear to be in active use for storage. Notes in the file state that the containers are placed approximately 12 feet apart, connected by a roof and have the ends closed in. No building permit has been obtained by the property owner or tenant.

D. A Baltimore County building permit is required before a person may erect, construct, repair, alter, remodel, remove, or demolish a building or structure. BCC Section 35-2-301. Respondent has improperly constructed this shed without obtaining the required building permit and inspections. Respondent must obtain a permit and all required inspections and construct a storage shed that meets code and zoning requirements, or remove the structure from the property.

E. Even if the shed structure had not been improperly constructed, the shipping containers would have to be removed from the property. County zoning regulations prohibit the storage in a BL zone of truck trailers, or of freight-shipping containers designed to be mounted on chassis for transport. BCZR Section 101.1 (TRUCKING FACILITY; TRUCKING FACILITY, CLASS II); Section 230.1 (B.L. Zone Use Regulations). Storing the shipping containers outside violates County zoning regulations.

F. Because compliance is the goal of code enforcement, the civil penalty will be substantially reduced if the violations are corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$10,000.00 (ten thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$500.00 (five hundred dollars) if the violation is corrected by March 31, 2010.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty as authorized above shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 22nd day of February 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer